

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

ERNEST EVANS, an individual, THE  
LAST TWIST INC., a Pennsylvania for  
Profit Company and THE ERNEST  
EVANS CORPORATION, a  
Pennsylvania for Profit Company,

Plaintiffs,

vs.

ANDY & EVAN INDUSTRIES, INC., a  
New York corporation; THE NEIMAN  
MARCUS GROUP LLC, a Delaware  
limited liability company; and NEIMAN  
MARCUS GROUP LTD LLC, a  
Delaware limited liability company,

Defendants.

USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #: \_\_\_\_\_  
DATE FILED: 10/30/2017

CASE NO: 16 Civ. 5729 (KHP)

**PERMANENT INJUNCTION AND FINAL CONSENT JUDGMENT**

THIS CAUSE having come upon this Court by consent of all parties to this action to  
the jurisdiction of the undersigned for all purposes and having presided over the settlement  
conference dated August 28, 2017 and being otherwise advised in the premises,

WHEREAS, Plaintiffs ERNEST EVANS, THE LAST TWIST, INC and THE  
ERNEST EVANS CORPORATION (“Plaintiffs”) having commenced this action against  
ANDY & EVAN INDUSTRIES, INC. (A&E) and THE NEIMAN MARCUS GROUP LLC  
and NEIMAN MARCUS GROUP LTD., LLC (“NEIMAN & MARCUS” ) (A&E and  
“NEIMAN & MARCUS” collectively “Defendants”), and the parties without admitting  
liability having entered into a confidential settlement agreement.

WHEREAS, the Court has considered the parties arguments regarding the  
terms of the injunction.

Accordingly, it is ORDERED AND ADJUDGED, that a permanent injunction is hereby entered:

1. Restraining and enjoining the Defendants from using the term “CHUBBY CHECKER” or any other confusingly similar terms, as a trademark in United States commerce in violation of Plaintiffs’ trademark rights, if any, to said term;
2. Restraining and enjoining Defendant A&E from using the term “CHUBBY CHUCKER” as a trademark in United States commerce in violation of Plaintiff’s trademark rights, if any, to said term.
3. Restraining Defendant A&E from selling, advertising, offering for sale, manufacturing or distributing any products labeled, named, branded, referred to or advertised as the “Andy & Evan Chubby Checker Shirtzie,” or otherwise incorporating the trademark “CHUBBY CHECKER” in the sale of a product.
4. The Court will retain jurisdiction to enforce the terms of this Permanent Injunction and Final Consent Judgment, and all other terms of settlement agreed to by the parties relative to this action.

DONE AND ORDERED on this 30 day of October, 2017.



Hon. Katharine H. Parker